

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MICHAEL SHEPARD,

Plaintiff,

v.

KELSO, *et al.*,

Defendants.

Case No. 2:20-cv-01445-KJM-JDP (PC)

ORDER

DIRECTING PLAINTIFF TO FILE A
RESPONSE WITHIN FOURTEEN DAYS

Plaintiff previously filed a notice of voluntary dismissal. ECF No. 69. Since defendants had already filed a motion for summary judgment, the court directed defendants to notify the court if they stipulate to dismissal of this action. *See* Fed. R. Civ. P. 41(a)(1)(A); ECF No. 70. In response, defendants state that they are only willing to stipulate to dismissal of this action with prejudice. ECF No. 71. Defendants argue that should the court dismiss this action without prejudice, they may be subjected to defending themselves in a new action against the same claims by plaintiff. *Id.*

Generally, a dismissal is without prejudice unless the parties stipulate otherwise. Fed. R. Civ. P. 41(a)(1)(B). Plaintiff has not indicated whether he believes dismissal with prejudice is appropriate. Accordingly, he is directed to notify the court within fourteen days if he stipulates to

1 a dismissal with prejudice.¹

2 IT IS SO ORDERED.

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4 Dated: June 5, 2024



5 JEREMY D. PETERSON
6 UNITED STATES MAGISTRATE JUDGE
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1 In the event plaintiff stipulates to dismissal with prejudice, the court will construe the parties' filings as a stipulation of voluntary dismissal with prejudice to Rule 41(a)(1)(A)(ii). If plaintiff refuses to stipulate, the court may still grant his request for dismissal, and dismiss the action "on terms that the court considers proper." Fed. R. Civ. 41(a)(2).